

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20378
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2005. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed an application for the 2005 property reduction benefit on April 4, 2005. The application was approved, and the petitioner received a benefit for payment of the property tax on the homestead.

Idaho Code §§ 63-707 and 63-708 provide for audit of all claims and recovery of benefits that have been paid in error. When the staff compared the petitioner's application with [Redacted] County records, ownership of the property was questioned.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive a property tax reduction benefit. The pertinent part of Idaho Code § 63-701 states:

63-701. Definitions. As used in this chapter:

(1) **"Claimant" means a person who has filed an application** under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, **a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:**

(a) Not less than sixty-five (65) years old; or

- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

(2) **"Homestead" means the dwelling, owner-occupied by the claimant** as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead. (Emphasis added.)

...

(7) **"Owner" means a person holding title in fee simple** or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or **who has retained or been granted a life estate** or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who: (Emphasis added.)

The property tax reduction benefit program is a benefit for certain individuals based on their qualifications as outlined in Idaho law. One of the specific requirements for consideration to receive the benefit is to own a homestead on January 1, or before April 15, of the year in which the claim was filed. The owner of a property is then described in detail to clarify who will be considered owner for property tax reduction benefit purposes.

Because a Quitclaim Deed filed with [Redacted] County on December 29, 1999 transferred ownership of the property out of the petitioner's name, the staff sent the petitioner a Notice of Deficiency Determination (NODD). The petitioner was asked to repay the benefit plus interest.

In response to the NODD, the staff received a letter from the petitioner's son, a copy of a Quitclaim Deed signed by the petitioner on January 8, 1993, and a copy of a Commitment for Title Insurance. Both the deed and title insurance showed the petitioner retained a life estate in the property. The letter said it was the family's position that the petitioner had met the requirements of Idaho Code § 63-701(7) because she had retained the right to live on the property.

While it is true the petitioner retained her right to live on the property when she filed the first Quitclaim Deed in 1993, the Quitclaim Deed filed in 1999 took the right away. No language in the second deed retained the petitioner's right to live on the property. In fact, the main difference in the two Quitclaim Deeds was the removal of the language addressing the life estate.

With the second Quitclaim Deed the petitioner gave up all rights she had in the homestead. She was not owner of the property on January 1, 2005. Repayment of the petitioner's 2005 property tax reduction benefit is appropriate.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners.

WHEREFORE, the Notice of Deficiency Determination letter dated May 21, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following 2005 property tax reduction benefit reimbursement and interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$390.00	\$31.03	\$421.03

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
